

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

George Abernathy,

Case No.: 3:17CV1646

Plaintiff

v.

ORDER

George Kral, et al.,

Defendants

Plaintiff, whose residence DEA agents and Toledo Police Officers searched pursuant to a warrant that, according to the government, DEA Special Agent Michael Noel obtained from a Judge of the Toledo, Ohio, Municipal Court, initially filed this suit in the Lucas County Court of Common Pleas to recover property seized during execution of the warrant.

The government removed the case to this court. Plaintiff, ignoring the government's contention that Mr. Noel, who is a defendant in this suit, is a DEA Agent, objects to the removal. His objection, at least at this stage, is meritless: under 28 U.S.C. § 1442(a)(1) the government is absolutely entitled to remove cases against federal officers from state to federal court.

If plaintiff can overcome the *prima facie* showing that Mr. Noel is a federal officer, then I would be without jurisdiction; but that is a question for me, rather than a state court judge, to decide.

It is, therefore,

ORDERED THAT:

1. Plaintiff's opposition to removal (Doc. 3) be, and the same hereby is denied; and

2. The clerk shall forthwith set this case for a telephonic status/scheduling conference.

So ordered.

/s/ James G. Carr
Sr. U.S. District Judge